

**STATEMENT OF  
COMMISSIONER ROBERT M. McDOWELL**

RE: Applications of AT&T Inc. and Dobson Communications Corporation For Consent to Transfer Control of Licenses and Authorizations, File Nos. 0003092368, *et al.*, WT Docket No. 07-153, *Memorandum Opinion and Order*, FCC 07-196

I am pleased to support approval of this transaction given the numerous public interest and consumer benefits, especially for rural and suburban Alaskan consumers. The merger will provide Dobson's customers with access to the full range of services available on AT&T's national GSM-EDGE network and will allow Dobson's customers to make and receive voice calls in more than 190 countries, and access data services in 120 countries, through AT&T's roaming partners. As discussed below, however, I question the necessity of introducing a new economic analytical framework as part of this Order.

In today's order, the Commission adds 700 MHz band spectrum to its market screen for spectrum suitable for provision of mobile telephony services. While it is certainly important that we update our analytical tools from time to time, this action is decidedly premature and introduces an unnecessary level of complexity into the Commission's market analyses. I also wonder how the new framework will affect participation in the forthcoming auction of 700 MHz spectrum.

The Order concludes that 700 MHz band spectrum "not only is technically capable of supporting mobile services, but also is in many respects ideally suited for the provision of these services." This may be true; however, at this preliminary stage, we have little, if any, idea how auction winners will elect to use this spectrum. Nor should we -- the Part 27 licensing rules expressly welcome flexible uses within this band. And, at least one current operator is deploying mobile broadcast services. The Order also concludes that 700 MHz band spectrum "is available on a nationwide basis." Actually, Congress has determined that the spectrum will not be fully available until February 17, 2009, which is over one year away.

The fact is that the capabilities of the 700 MHz band spectrum are irrelevant until the band is licensed, cleared of incumbent users, built out, and used to provide services to America's consumers. Moreover, I wonder whether the distinctions for the purposes of this market screen between the cellular, PCS, SMR, 700 MHz, AWS-1 and BRS spectrum bands are still necessary or appropriate. Perhaps our overdue 12<sup>th</sup> *Annual Wireless Competition Report* will more thoroughly analyze this issue.

Once again, the Commission raises more questions than it answers, and appears to bind future Commission action, and dictate or bind government policy. I am concerned that we are regulating unnecessarily without thinking through possible unintended consequences. This is especially unfortunate given the critical need for market certainty as we approach the 700 MHz auction.